

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

I. Provisional Election of Claims Pursuant to 37 C.F.R. § 1.146

Applicants provisionally elect to prosecute Species I in response to the preliminary election requirement set forth in the Office Action. Applicants respectfully submits that at least claims 1-21 read on Species I.

II. Applicants Traverse the Election Requirement

Initially, Applicant submits that the election of species requirement is not well founded. A careful review of the subject application reveals that the various embodiments are so closely related as to not require separate fields of search. Accordingly, neither Applicants nor the U.S. Patent and Trademark Office should be put through the trouble and expense entailed in multiple filing and prosecution. In addition, Applicants submit that the public-at-large should not be required to obtain and study several patents in order to have available all of the issued patent claims covering the invention.

Applicants note that the Office Action does not articulate any rationale supporting the contention that the disclosed embodiments of the claimed invention are either independent or distinct. MPEP § 803 sets forth the requisite criteria for properly restricting the claims of an application. MPEP § 803 specifically requires that: (A) the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) that there must be a serious burden on the Examiner if restriction is not required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth how/why there would be a serious burden if election is not required.

Lastly, the making of an election species is not mandatory in all instances where it is possible to do so. Rather, the Examiner may use his discretion and choose not to make an election of species where circumstances warrant. It is believed that such is the case in the subject application. Therefore, Applicants request, under 37 C.F.R. §1.143, that the Examiner reconsider and withdraw the election requirement set forth in the above-noted Office Action.

III. Conclusion

Applicants respectfully submit in view of the close relation between the various embodiments, the absence of a rationale in support of the election requirement, and the absence of a showing of a burden if the election requirement is not imposed, that the subject

election of species requirement should be withdrawn.

REMARKS

Applicants request reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-21 are pending in the present application. Claims 1, 11, 15, and 19 are the independent claims.

Claim 22 has been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims 1, 2, 5, 7, 9, 13, and 14 have been amended. No new matter is believed to have been added.

Initially, Applicants acknowledge with appreciation the indication that claims 1-14 were indicated as reciting patentable subject matter and would be allowable if amended to address the claim objections and rejection under 35 U.S.C. § 112, second paragraph, addressed below

The Office Action objected to claims 1-14 and 22 on formal grounds. By the present Paper, Applicants have amended claims 1, 2, 5, 7, 9, 13, and 14 in view of the Examiner's comments. Favorable consideration is respectfully requested.

Claims 1-14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. By the present Paper, Applicants have amended claim 1 in view of the Examiner's comments and respectfully submit that claims 1-14 now even more fully satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 1-14 under 35 U.S.C. § 112, second paragraph, are respectfully requested.

In view of the foregoing, Applicants respectfully submit that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicants believe that the present Paper is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously


solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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